

**COPY****RESPONSE UNDER 37 C.F.R. 1.116  
EXPEDITED PROCEDURE  
EXAMINING ART UNIT 2673****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

David E. ALLPORT

Application No.: 09/874,450

Filed: 6/5/2001

For: METHOD OF CONTROLLING  
MULTI-USER ACCESS TO THE  
FUNCTIONALITY OF CONSUMER  
DEVICES**RECEIVED  
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APR - 8 2004

**OFFICIAL**


Examiner: NGUYEN, Jimmy H.

Art Unit: 2673

Confirmation No.: 6282

Docket No.: ER 1604.02 US

**AMENDMENT AND RESPONSE UNDER 37 CFR §1.116**MAIL STOP AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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March 16, 2004 (Date)	Ronnie M. Franks (Type or print name)
 (Signature)	

Dear Sir:

In response to the outstanding Final Office Action mailed January 13, 2004, please amend the above-identified Application as follows:

Amendments to the Claims are reflected in the listing of claims that begins on page 2 of this paper.

Amendments to the Drawings begin on page 6 of this paper.

Remarks/Arguments begin on page 7 of this paper.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

This listing of claims will replace all prior versions, and listings of claims in the application:

**LISTING OF CLAIMS:**

Claim 1 (currently amended): A method for ~~accessing functionality of a consumer accessing a device~~ comprising:

~~accessing a second state of a controller, the second state being established using bio-metric input of a second user;~~

~~receiving bio-metric input of a first user into a bio-metric user identification input component of the controller;~~

~~establishing a system state of the controller, the system state being a previous used state by the first user or a state similar to the previous used state; and~~

~~providing access to functionality of the system state of a consumer device using the controller by the first user.~~

providing a controller having a bio-metric component;

providing access to the functionality of one or more devices by use of said controller, said access being dependent upon bio-metric input of a first user entered into said bio-metric input component; and

providing access to the functionality of one or more devices by use of the controller, said access being dependent upon bio-metric input of a second user entered into the input component, said bio-metric input of the second user being entered after said bio-metric input of the first user.

wherein said controller is programmed to present the second user upon log-on thereto, a state substantially similar to or the same as a previous state that was in effect at the end of a previous use of the controller by the second user.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

Claims 2 - 16 (cancelled)

Claim 17 (currently amended): A controller comprising:

a bio-metric input component; and

a graphical display;

~~wherein the controller, upon log-on by a first user, is programmed to enter a previous used state by the first user or a state similar to the previous used state by the first user,~~

~~wherein said log-on occurs in response to the first user inputting bio-metric input into the bio-metric input component:~~

a system state for a first user being dependent upon a bio-metric input of said first user entered into said bio-metric input component wherein said system state for said first user is the same or substantially similar to a previous state of said controller that was in effect at the end of a previous use of said controller by said first user; and

a system state for a second user being dependent upon a bio-metric input of said second user entered into said bio-metric input component wherein said system state for said second user is the same or substantially similar to a previous state of said controller that was in effect at the end of a previous use of said controller by said second user.

Claims 18 - 70 (cancelled)

Claim 71 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are voice inputs.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

Claim 72 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are voice inputs.

Claim 73 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are voice fingerprint inputs.

Claim 74 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are fingerprint inputs.

Claim 75 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are retinal scans.

Claim 76 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are retinal scans

Claim 77 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are signature based inputs.

Claim 78 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are signature based inputs.

Claim 79 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are means for uniquely identifying a user.

Claim 80 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are means for uniquely identifying a user.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

Claim 81 (new): The method of claim 1 wherein said bio-metric inputs of said first and second users are facial inputs.

Claim 82 (new): The controller of claim 17 wherein said bio-metric inputs of said first and second users are facial inputs.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

**AMENDMENT TO THE DRAWING FIGURES**

The Examiner has accepted Figures 1-6 in prior office actions and refused to enter Figures 7-11. Applicant hereby cancels Figures 7-11. Applicant believes that current Figures 1-6 are acceptable and supported by the original disclosure.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

### **REMARKS**

This Amendment is in response to the Office Action mailed January 13, 2004. Claims 1, 13, 14, 17, 27, 33-35, 45, and 67-70 are pending in the present application. Applicant has cancelled claims 2-16 and 18-70. Applicant has submitted new claims 71-82. In the Office Action, the Examiner objected to the drawings, rejected claims 1, 13, 14, 27, 33-35, 45, and 67-70 under 35 U.S.C. § 112, first paragraph, and claims 1, 13, 14, 17, 27, 33-35, 45 and 67-70 under 35 U.S.C. § 103. Applicant has canceled claims 2-16 and 18-70, amended claims 1 and 17, and added claims 71-82. Applicant responds as follows.

#### **I. REQUEST FOR RECONSIDERATION OF FINAL REJECTION**

Applicant hereby requests reconsideration under MPEP section 706.07(d) as being premature. The Applicant petitioned the Commissioner on November 24, 2003, and the Commissioner has not yet responded. Therefore, Applicant filed a Request for Continued Examination to keep the present Application pending, but expected the Commissioner to decide on the Petition before a final rejection. Without a decision from the Commissioner, it would have been impossible for Applicant to know: (1) if claim amendments were necessary, (2) if so, the scope of the claim amendments that should be made, and (3) on the basis of which figures those claim amendments would find support. Applicant believes the Commissioner's decision would have materially affected both the claims and specification of the present application. Therefore, Applicant respectfully requests that the final rejection be withdrawn.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

## **II. REJECTION UNDER 35 U.S.C. § 112**

The Examiner rejected claims 1, 13, 14, 27, 33-35, 45, and 67-70 under 35 U.S.C. § 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, has possession of the claimed invention.

Applicant has cancelled claims 13, 14, 27, 33-35, 45, and 67-70 so the rejection is moot with respect to those claims. Claim 1 has been amended. Amended claim 1 has limitations similar to claim 1 of US Patent No. 6,256,019 from which the present application claims priority. Applicant believes amended claim 1 is in a condition for allowance for the same reasons stated by the Examiner in paragraph 8, page 7 (paper number 9) of application serial number 09/280,524, now US Patent No. 6,256,019, from which the present application claims priority. For the same reason, amended claim 17 should also be in a condition for allowance.

## **III. REJECTIONS UNDER 35 U.S.C. § 103**

The Examiner rejected claims 1, 13, 14, 17, 27, 33-35, 45 and 67-70 under 35 U.S.C. § 103(a) as being unpatentable over US Patent No. 5,990,803 issued to Park, in view of US Patent No. 5,920,642 issued to Merjanian, in further view of Applicant's admitted prior art (AAPA). Applicant has cancelled claims 13, 14, 27, 33-35, 45 and 67-70 so the rejection is moot with respect to those claims.

Claims 1 and 17 have been amended. Amended claims 1 and 17 have limitations similar to claim 1 of US Patent No. 6,256,019 from which the present application claims priority. Applicant believes amended claims 1 and 17 are in a condition for allowance for the same reasons stated by the Examiner in paragraph

Docket No. ER 1604.02 US  
USSN: 09/874,450

**PATENT**  
**Art Unit: 2673**

8, page 7 (paper number 9) of application serial number 09/280,524, now US Patent No. 6,256,019, from which the present application claims priority.

Therefore, Applicant believes that independent claims 1 and 17 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. § 103(a) be withdrawn.

Docket No. ER 1604.02 US  
USSN: 09/874,450

PATENT  
Art Unit: 2673

### CONCLUSION

In view of the amendments and remarks made above, it is respectfully submitted that the pending claims are in condition for allowance, and such action is respectfully solicited. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the Examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 04-1175.

Respectfully submitted,

DISCOVISION ASSOCIATES



Micah Goldsmith, Esq.  
Reg. No. 43,638

Dated: March 15, 2004

DISCOVISION ASSOCIATES  
INTELLECTUAL PROPERTY DEVELOPMENT  
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04/08/04 3:08PM; JetFax #461; Page 1

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P.O. Box 1450  
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Date: April 8, 2004

Number of Pages: Cover + 13  
FAX NO.: (703) 872-9306

Attn: Examiner Jimmy H. Nguyen

From: Micah Goldsmith, Esq.  
Reg. No. 43,638

PLEASE CONTACT US IF ANY PAGES  
ARE ILLEGIBLE OR ARE NOT RECEIVED  
TEL: (949) 660-5000  
FAX: (949) 660-1801

Re: U.S. Patent Application Serial No.  
09/874,450  
Filing Date: June 5, 2001  
Title: METHOD OF CONTROLLING  
MULTI-USER ACCESS TO THE  
FUNCTIONALITY OF CONSUMER  
DEVICES  
Confirmation No.: 6282  
Art Unit: 2673  
Inventor: David E. Allport  
Attorney Docket No.:  
ER 1604.02 US

**PLEASE ACKNOWLEDGE RECEIPT OF THIS COMMUNICATION.**

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April 8, 2004

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PATENT TRADEMARK OFFICE

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

RE: Request for Continued Examination  
U.S. Patent Application Serial No.: 09/874,450  
Filing Date: June 5, 2001  
Confirmation No.: 6282  
Title: METHOD OF CONTROLLING MULTI-USER ACCESS TO THE  
FUNCTIONALITY OF CONSUMER DEVICES  
Inventor: David E. Allport  
Attorney Docket No.: ER 1604.02 US

Dear Sir:

Enclosed for filing please find the following documents:

1. RCE Transmittal Form (1 page);
2. Fee Transmittal for FY 2004 (1 page);
3. Copy of Amendment and Response Under 37 C.F.R. § 1.116 (10 pages), filed March 15, 2004;
4. Cover Letter (Document Control No. 6S284S);
5. Certificate of Facsimile Transmission to (703) 872-9306, dated April 8, 2004.

Please acknowledge receipt of this transmittal.

Very truly yours,

DISCOVISION ASSOCIATES

A handwritten signature in black ink, appearing to read 'Micah P. Goldsmith', is written over the printed name.

Micah P. Goldsmith  
Reg. No. 43,638  
Patent Prosecution Attorney  
INTELLECTUAL PROPERTY DEVELOPMENT

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Enclosures

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Approved for use through 07/31/2003. OMB 0651-0032

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# FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR §1.27

TOTAL AMOUNT OF PAYMENT (\$ 770.00

## Complete if Known

Application Number	09/874,450
Filing Date	June 5, 2001
First Named Inventor	David E. ALLPORT
Examiner Name	Jimmy H. Nguyen
Art Unit	2673
Attorney Docket No.	ER 1604.02 US

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit Account Number **04-1175**  
 Deposit Account Name **DISCOVISION ASSOCIATES**

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☒ Charge any additional fee(s) or any underpayment of fee(s)  
☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee \$	Fee Code	Fee \$		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUB TOTAL (1) (\$ -0-

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		Extra Claims		Fee from Below		Fee Paid	
	-20** =		x		=		
Independent Claims	-3** =		x		=		
Multiple Dependent					=		

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee \$	Fee Code	Fee \$		
1202	18	2202	9	Claim in excess of 20	
1201	86	2201	43	Independent claims in excess of 3	
1203	280	2203	145	Multiple dependent claim, if not paid	
1204	86	2204	43	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	

SUBTOTAL (2) (\$ -0-

\*\* or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee \$	Fee Code	Fee \$		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt.	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 C.F.R. 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	770.00
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

\* Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 770.00

## SUBMITTED BY

Name Printed/Typed **Micah P. Goldsmith**Registration No. **43,638**  
Attorney / Agent

## Complete (if applicable)

Telephone **(949) 660-5001**

Signature

Date **April 8, 2004**

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